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5 IN THE UNITED STATES DISTRICT COURT  
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7 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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9 B & R SUPERMARKET, INC., *et al.*,

No. C 16-01150 WHA

10 Plaintiffs,

11 v.

12 VISA, INC., *et al.*,

**ORDER GRANTING MOTION  
TO TRANSFER**

13 Defendants.  
14 \_\_\_\_\_/

15 On March 20, defendants Mastercard and Visa moved to transfer this antitrust action to  
16 the Eastern District of New York, citing “overlapping issues” with a multidistrict litigation  
17 pending there (Dkt. No. 437). Plaintiffs alone vigorously opposed the motion (Dkt. No. 446).  
18 The motion was fully briefed by April 10 and scheduled for hearing on April 27. On April 24,  
19 however, plaintiffs changed their position and filed a statement of non-opposition consenting to  
20 “transfer and coordination with the litigation in New York, so that all parties may benefit from  
21 certain efficiencies, as discovery overlaps have escalated” (Dkt. No. 492).

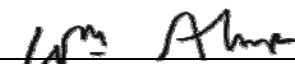
22 The Court also independently considered the private and public interest factors at stake,  
23 including plaintiffs’ concerns about the burdens of duplicative discovery should this action  
24 remain in our district (*e.g.*, Dkt. No. 509 at 6:6–6:16). This order concludes that, for the  
25 convenience of the parties and in the interest of justice, this action should be transferred —  
26 despite the large investment of time by this district judge in the case. *See* 28 U.S.C. 1404(a);  
27 *Decker Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834, 843 (9th Cir. 1986).  
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1 One particular consideration merits brief mention. In connection with the motion to  
2 transfer, defendant Discover Financial Services submitted a statement of non-opposition and  
3 voiced its concern that plaintiffs here appear to have relied on arguments and allegations  
4 inconsistent with those asserted by the same counsel for plaintiffs in the New York MDL (Dkt.  
5 No. 450). Having reviewed both Discover's statement and plaintiffs' response thereto (Dkt. No.  
6 487), the Court is troubled by the possibility of inconsistent litigation positions between this  
7 action and the New York MDL and recognizes that such potential abuses would be easier to  
8 police in the Eastern District of New York.

9 For the foregoing reasons, the motion to transfer is **GRANTED**. This action is hereby  
10 **TRANSFERRED** to the Eastern District of New York for all purposes.

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12 **IT IS SO ORDERED.**

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14 Dated: May 4, 2017.

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17 WILLIAM ALSUP  
18 UNITED STATES DISTRICT JUDGE  
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